THE HONOURABLE SRI JUSTICE D.S.R.VARMA
AND
THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION Nos.16357, 19208, 22066, 22069, 22071, 22072, 22073, 22074, 22079, 22080, 22158, 22159, 22162, 22163, 22165, 22169, 22175, 22176, 22179, 22180, 22181, 22182, 22183, 22184, 22185,22186, 22187, 22231, 22232, 22233, 22235, 22241, 22244, 22249 and 22613 of 2007

Dated:03.12.2007

W.P.No.16357 of 2007

Between:

The District Collector-cum-Chairman, Selection Committee, Prakasam District at Ongole and Three others.

…Petitioners

And

Pussala Lakshmi Jyoshna

…Respondent

THE HONOURABLE SRI JUSTICE D.S.R.VARMA
AND
THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION Nos.16357, 19208, 22066, 22069, 22071, 22072, 22073, 22074, 22079, 22080, 22158, 22159, 22162, 22163, 22165, 22169, 22175, 22176, 22179, 22180, 22181, 22182, 22183, 22184, 22185,22186, 22187, 22231, 22232, 22233, 22235, 22241, 22244, 22249 and 22613 of 2007

ORAL COMMON ORDER: **(per the HON'BLE SRI JUSTICE D.S.R.VARMA)**

Heard the learned Government Pleader for Services-II appearing for the petitioners, in all the writ petitions, as well as the learned counsel appearing for the respondents in Writ Petition Nos.22079, 22162, 22163, 22175, 22176, 22182, 22187, 22244 and

22249 of 2007 only, and in all other matters, neither the respondents are present nor there is any representation on their behalf, despite service of notices.

2. Since all the writ petitions are filed aggrieved by the common order, dated 10.05.2006, passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for brevity "the Tribunal"), in O.A.No.7578 of 2005 and Batch, they are heard together and are being disposed of by this common order.

3. The whole question involved in this batch of writ petitions is – as to whether the Government was justified in issuing G.O.Ms.No.324, dated 26.07.2005, prescribing physical endurance tests, in different phases, contrary to Rule-5 of Andhra Pradesh Survey and Land Records Sub-ordinate Service Rules (for short "the Rules"), for the post of Deputy Surveyor.

4. It is not in dispute that, while filling up certain posts of Deputy Surveyors, a notification, dated 08.11.2003, had been issued, in accordance with Rule-5 of the Rules.

5. Added to the above, other kind of tests, which are otherwise called as "physical endurance tests", were also prescribed by way of certain executive instructions in the said G.O.

6. It is the contention of the applicants before the Tribunal i.e., the respondents herein, that prescribing the endurance tests was contrary to Rule-5 of the Rules. In other words, Rule-5 of the Rules does not contemplate any physical endurance tests to be conducted for selecting a candidate for the post of Deputy Surveyor.

7. It appears, it has been contended by the learned Government Pleader, appeared for the respondents, before the Tribunal, that the said executive instructions issued in the said

G.O., are not contrary to any law, inasmuch as, in certain areas, where the Rule is silent, as and when it is felt imperative, issuance of executive instructions are permissible.

8. It was also the contention of the learned Government Pleader, appeared for the respondents, before the Tribunal, that, by virtue of the nature of duties of Deputy Surveyor, one should make a long distance walks and go to remote areas in any mode of transportation, including by way of bicycle etc., which may not be possible for certain type of individuals. Therefore, the physical endurance of the individuals, who seek appointment as Deputy Surveyor, is to be decided and therefore, as Rule-5 of the Rules does not contemplate any such physical endurance tests, the said G.O.Ms.No.324 had been issued by the Government, making the endurance tests, at different levels, imperative.

9. The Tribunal did not accept the said contentions of the learned Government Pleader in the said batch of O.As., and eventually allowed the same, through the impugned common order.

10. Aggrieved by the same, the Government had already filed W.P.No.15265 of 2006, and a Division Bench of this Court, while accepting the contention of the learned Special Government Pleader, appearing for the petitioners therein, that the executive instructions in the said G.O.Ms.No.324 are not contrary to any law, inasmuch as, in certain areas, where the Rule is silent, as and when it is felt imperative, issuance of executive instructions are permissible, eventually allowed the same, by order, dated 25.06.2007, and the same was followed in various other writ petitions, including some batch of writ petitions.

11. In view of the reasoning assigned by the Division Bench of this Court, in this regard, while allowing the said W.P.No.15265 of 2006, we do not feel it necessary to go into this aspect any

further in the present batch of writ petitions.

12. Consequently, all the abovementioned writ petitions are liable to be allowed, in terms of the said order, dated 25.06.2007, passed by the Division Bench of this Court, in W.P.No.15265 of 2006 and in subsequent batch of writ petitions.

13. Accordingly, all the abovementioned writ petitions are allowed, at the stage of admission, in terms of the order, dated 25.06.2007, in W.P.No.15265 of 2006, passed by the Division Bench of this Court. However, there shall be no order as to costs.

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JUSTICE D.S.R.VARMA

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JUSTICE K.C.BHANU

03RD DECEMBER 2007

DR